

1 STEPHEN G. CHANDLER, SBN 114699
2 Law Offices of STEPHEN G. CHANDLER
3 Best Building
4 1330 East 14th Street
5 San Leandro, CA 94577-475
510/483-3900
Fax: 510/483-0118

5 Attorney for RORY McHALE, Plaintiff
6
7

8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 RORY McHALE,

11 NO. C-03-1128 CRB

12 Plaintiff,

13 v.
14 PROPOSED JUDGMENT ENFORCING
15 HEATING, INC.,
16 Defendants.

17 /
18 **FINDINGS:**

19 The Court hereby finds that the parties, RORY McHALE and ANN ENOS entered into a
20 written Settlement Agreement entitled "Interim Settlement Agreement" on or about March 16,
21 2004. Defendant ANN ENOS filed a Motion to enforce the Settlement Agreement, but asked
22 also to be relieved of her obligations contained in that Settlement Agreement, most importantly
23 including her obligation to pay RORY McHALE Eight Thousand Dollars (\$8,000.00) "within 90
24 days of the execution of a Final Settlement Agreement".

25 The Court hereby finds that RORY McHALE executed a Final Settlement Agreement

1 prepared by ANN ENOS' attorney. After delivery of that signed agreement to ANN ENOS'
2 attorney, ANN ENOS failed and refused to sign a formal agreement. The Court does find there
3 has been partial compliance with the Interim Settlement Agreement in that ANN ENOS has
4 delivered four vacuum duct cleaners to Plaintiff. The Court finds that the bankruptcy matter
5 discussed in the Interim Settlement Agreement related to C & R Heating, Inc., was dismissed
6 and, therefore, Plaintiff is no longer able to withdraw his claim in Bankruptcy Court. The Court
7 finds that ANN ENOS and her counsel failed to return a fully executed of the formal Settlement
8 Agreement prepared by ANN ENOS' attorney as required in Paragraph Three.
9

10 The Court further finds ANN ENOS has failed to pay or even tender the sum of Eight
11 Thousand Dollars to Plaintiff or Plaintiff's attorney.

12 WHEREFORE, GOOD CAUSE APPEARING,

13 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff have and
14 recover the sum of Eight Thousand Dollars (\$8,000.00) from ANN ENOS plus interest thereon at
15 Ten Percent (10%) per annum from March 16, 2004, until the date payment is made to Plaintiff.
16 Furthermore, Defendant ANN ENOS is directed to sign and execute the release agreement
17 prepared by her attorney and lodged with the Court on or about March 26, 2004, and delivered to
18 Plaintiff's attorney. As an addition, Plaintiff shall be entitled to attorney fees of Two Thousand
19 Dollars (\$2,000.00) to enforce the Interim Settlement Agreement and obtain this Judgment and
20 Court costs as allowed by law.
21

22 DATED:

23 _____
24 JUDGE CHARLES R. BREYER
25

PROOF OF SERVICE BY FACSIMILE

I declare that:

I am employed in the County of Alameda, California. I am over the age of eighteen years and not a party to this action. My business address is 1330 East 14th Street, San Leandro, CA 94577.

On August ____, 2004, following ordinary business practices, I faxed from 1330 East 14th Street, San Leandro, California 94577, a copy of "Proposed Judgment Enforcing Interim Settlement Agreement" in Case Number C-03-1128 CRB to:

Matthew F. Graham
Tammy A. Brown
Aiken, Kramer & Cummings, Inc.
1111 Broadway, Suite 1500
Oakland, CA 94607
Facsimile: (510) 834-9017

H. L. Koelewyn
Hoseit & Koelewyn
700 University Avenue, Ste. 140
Sacramento, CA 95825
Facsimile: (916) 922-1938

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was signed on August ____, 2004, at San Leandro, CA.

C. S. CERRO